

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EXECUTIVE PARK PARTNERS LLC,

Plaintiff,

-against-

BENICCI INC.,

Defendant.

ORDER

22-CV-02560 (PMH)

PHILIP M. HALPERN, United States District Judge:

Yesterday, pursuant to the parties' agreement, Plaintiff filed a Second Amended Complaint. (Doc. 20; *see also* Doc. 12 ¶ 4). The parties thereafter filed four letters—two each—concerning disputes over pending motion practice. (Doc. 21; Doc. 22; Doc. 23; Doc. 24).

First, to the extent Plaintiff believes it improper for Defendant to raise arguments in its brief that were not raised in its pre-motion conference letter, Plaintiff may address that issue in its opposition papers. Second, the Second Amended Complaint is now the operative pleading and Defendant has advised that it “rel[ies] on its motion served July 26, 2022.” (Doc. 22 at 1). Plaintiff shall, therefore, serve its opposition to Defendant’s motion to dismiss on or before **August 31, 2022**. Reply papers, if any, shall be served—and all motion papers filed—on **September 7, 2022**. Third, the Court cautions counsel that the needlessly combative tone of the parties’ submissions is wholly unacceptable. Notwithstanding any personal animosity that may exist, counsel are, first and foremost, officers of the Court and shall be guided accordingly.

SO ORDERED:

Dated: White Plains, New York
August 17, 2022



PHILIP M. HALPERN
United States District Judge